

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JASON COLLURA : Civil Action No. 13-4066  
:   
v. : **Jury Trial Demanded**  
:   
NICHOLAS JAMES FORD, :   
PAMELA PRYOR DEMBE, MARY POLITANO, :   
CITY OF PHILADELPHIA, STEFFEN BOYD, :   
STEVEN AUSTIN, CHARLES HOYT and :   
ROBERT J. MALVESUTO :   
:

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

J.C. : Civil Action No. 15-4745  
:   
v. : **Jury Trial Demanded**  
:   
NICHOLAS FORD, STEFFEN BOYD, :   
JOSETTE SPRINGER, SHONDA WILLIAMS, :   
JOHN W. HARRISON, E. MARTINEZ, :   
STEVEN AUSTIN, DARLENE MILLER and :   
CHARLES HOYT :   
:

**DEFENDANTS' MEMORANDUM IN RESPONSE TO THE COURT'S ORDER TO  
SHOW CAUSE**

Defendants, by and through their counsel, Marshall, Dennehey, Warner, Coleman & Goggin and Christopher Boyle, Esq., file this Memorandum pursuant to the direction of the Court's Order to Show cause, and aver:

This Court has issued an Order to Show Cause in this matter:

**AND NOW**, this 17<sup>th</sup> day of May, 2017, the parties in the above-captioned cases are hereby **ORDERED TO SHOW CAUSE** as to why these two cases should not be consolidated. On or before June 9, 2017, each party shall file a response to this Order (i) detailing the claims remaining in each case and the extent to which those claims overlap or are duplicative and (ii) the party's position on consolidating the two cases.

**I. CLAIMS OF THE TWO CASES:**

**Civil Action 15-4745**

Only claims against Defendant Ford, remain. Those claims, according to the Plaintiff, are:

This is a civil action authorized by 42 U.S.C § 1983, First Amendment, Fourth Amendment, Sixth Amendment, Fourteenth Amendment direct, Fourteenth Amendment under 1983, all of the Federal Constitution, Article I Section 8, of the Pennsylvania Constitution, all due process clauses of federal and state law, to redress deprivations, under color of state law, of rights secured by the Constitutions of the United States and of Pennsylvania.

(Plaintiff's Complaint (Civ.A.No. 15-4745) at ¶ 1.

**Civil Action 13-4066**

The claims against Defendant Ford remaining in this action, according to the Plaintiff are:

This is a civil action authorized by 42 U.S.C § 1983, First Amendment, Fourth Amendment, Fifth Amendment, Fourteenth Amendment direct, Fourteenth Amendment under 1983, all of the Federal Constitution, Pa. False Imprisonment, Article I § 7, Article I § 1, Article I Section 8, of the Pennsylvania Constitution, all equal protection clauses of federal and state law, all due process clauses of federal and state law, PA Malicious Prosecution and PA Intentional Infliction of Emotional Distress to redress deprivations, under color of state law, of rights secured by the Constitutions of the United States and of Pennsylvania.

(Plaintiff's Complaint (Civ.A.No. 13-4066) at ¶ 2.

In other words, the only claim that is not common to the two cases, if the matter is consolidated at 13-4066, is a Sixth Amendment claim against Defendant Ford. All other claims are duplicative. Further, the factual assertions underpinning both cases are based on Plaintiff's time on probation in Philadelphia. Stripped of hyperbole, both cases claim that Plaintiff was

subjected to an unwarranted urine tests and harassment while a probationer under Defendant Ford's supervision, nothing more.

It is plaintiff's contention, apparently, that his continued supervision by the Department of Probation, from 2013 to 2015, should be actionable in a separate suit. At the time Plaintiff filed his action at 15-4745, his claims at 13-4066 remained active before this Court. Rather than amend his Complaint, Plaintiff instead attempted a form of forum shopping, by filing a separate suit against the same defendant, based on the same claim- inappropriate supervision by the Department of Adult Probation.

## **II. DEFENDANTS' POSITION:**

The cases should be consolidated. Judge McHugh has found:

Although not all of Plaintiff's instant claims were raised in the prior action (he also alleges here that Ford falsified a probation report, knocked on Plaintiff's door loudly for a long time, and intentionally published Plaintiff's medical records in order to cause him humiliation), a majority of the claims are related to or repetitive of those raised in *Collura v. Ford*.

It is Defendants' position that the claims in both matters are based on the same, or similar, factual assertions, related to plaintiff's time as a Probationer, and cover the same time period, including his time as a probationer while his 2013 claim was before this Court. Plaintiff chose to refuse to participate in discovery before Your Honor, and filed a separate suit to follow through on his promise to flood this Court, and these defendants, with frivolous litigation, for years to come. Maintaining cases in two separate courts magnifies the cost to the court and the parties, to no legitimate end. They respectfully request that the Court so rule.

Respectfully submitted,

**MARSHALL DENNEHEY WARNER  
COLEMAN & GOGGIN**

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Attorney for Defendants

DATE: June 5, 2017  
LEGAL/110922266.v1

**CERTIFICATE OF SERVICE**

I, CHRISTOPHER BOYLE, ESQUIRE, do hereby certify that a true and correct copy of Defendants' Response to the Court's Order to Show Cause, was electronically filed with the Court on June 5, 2017 and is available for viewing and downloading from the ECF System. All counsel of record was served via electronic notification. Same was forwarded to Plaintiff, via first class mail, to the below listed address:

P.O. Box 934  
Philadelphia, PA 19105

**MARSHALL DENNEHEY WARNER  
COLEMAN & GOGGIN**

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DATE: June 5, 2017  
LEGAL/110922266.v1